



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,970	03/27/2001	Raj Bridgelall	1128	4228

7590 09/23/2003
Daniel R. McGlynn
Symbol Technologies, Inc.
One Symbol Plaza, MS A-6
Holtsville, NY 11742

EXAMINER

NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
----------	--------------

2876

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,970

Applicant(s)

BRIDGELALL ET AL.

Examiner

Kimberly D. Nguyen

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-20 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-40 is/are rejected.
- 7) ☒ Claim(s) 1-4, 6-20 and 25-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 July 2003 has been entered.

Claim Objections

2. Claims 1-4, 6-20, and 25-36 are objected to because of the following informalities:

- Claim 1, line 11: Substitute "data processed by said auto ID readers derived from the record carriers;" with "data processed by said first and said second auto ID readers derived from the first and the second type of record carriers;"

- Claim 1, line 13: Substitute "module that can be interchanged" with "module that is interchanged".

- Claim 8, line 10: Substitute "module that can be interchanged" with "module that is interchanged".

- Claim 15, lines 5-6: Substitute "module that can be interchanged" with "module that is interchanged".

- Claim 28, line 8: Substitute "circuitry can further provide" with "circuitry further provides".

- Claim 37, line 9: Substitute "signal processing circuitry" with "a signal processing circuitry".

Art Unit: 2876

- Claim 38, line 6: Substitute "signal processing circuitry" with "a signal processing circuitry".

Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 37-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,415,982 (hereinafter "Patent '982"). Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claimed invention is somewhat broader recitation of the Patent '982. For instance, in claim 37 of the present claimed invention and claim 11 of the Patent '982, the Applicant claims a data collection assembly comprising:

"a support having a predetermined form factor" whereas in the Patent '982, the Applicants claim "a support" (see col. 14, line 50);

"an auto ID reader supported by the support, and operative for sensing encoded data on a record carrier..." whereas in the Patent '982, the Applicants claim "a plurality of data collectors on the support, for collecting a plurality of data" (see col. 14, lines 51-52);

Art Unit: 2876

“a radio frequency (RF) transceiver supported by the support, and operative for receiving and processing data from a remote source and generating second signals relating to the processing” whereas in the Patent ‘982, the Applicants claim “an actuatable transceiver on the support, for transmitting the plurality of data by wireless communication (i.e., radio frequency transceiver) to a host remote from the support” (see col. 14, lines 53-55); and

“a signal processing circuitry including shared circuitry for processing and digitizing the first and second signals” whereas in the Patent ‘982, the Applicants claim “a triggering circuit for independently, manually actuating the transceiver to transmit one of the data during a first actuation of the triggering circuit, and to transmit another of the data during a second actuation of the triggering circuit”.

Thus, in respect to above discussions, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use the teachings of claim 11 of Patent ‘982 as a general teachings for a data collection assembly, etc., to perform the same functions as claimed by the present application. The instant claims obviously encompass the claimed invention of Patent ‘982 and differ only in terminology, that is, Patent ‘982 recite “a wireless communication” which encompasses radio frequency (RF), infrared (IR) communication, etc., to transceive data between two devices/systems. Accordingly, one of ordinary skill in the art would have recognized the advantage of utilizing/employing the RF as a wireless communication means as taught by Patent ‘982 due to the fact that RF communication means has the greater advantage of transceiving data between two devices without the necessity of a hardwire and/or an IR communication means that which requires a direct line-of-sight. To the extent that the instant claims are broaden and therefore generic to the claimed invention of

Art Unit: 2876

Patent '982, In re Goodman 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been claimed in a co-pending application.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruppert et al. (US 5,640,002; hereinafter "Ruppert").

Ruppert teaches a data collection module, comprising:

a support 298 having a predetermined form factor;

Art Unit: 2876

an auto ID reader 314 (col. 21, lines 63+) supported by the support, and operative for sensing encoded data on a record carrier positioned near or in contact with the reader and for generating first signals relating to the sensing;

a radio frequency (RF) transceiver 307 (col. 20, lines 53+) supported by the support, and operative for receiving and processing data from a remote source and generating second signals relating to the processing (figures 10, 16, 19; col. 17, line 8+, col. 21, line 63 through col. 23, line 38); and

a signal processing circuitry including shared circuitry for processing and digitizing the first and second signals (see figs. 16 and 19; col. 17, lines 8+).

Allowable Subject Matter

8. Claims 1-4, 6-20, and 25-36 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

9. The following is a statement of reasons for the indication of allowable subject matter:

The record of prior art fails to teach a data collection assembly comprising:

a support having a predetermined factor; a first auto ID reader supported by the support; a second auto ID reader supported by the support; wherein at least one of the first and second auto ID reader is an interchangeable module that is interchanged with modules including: a bar code symbol reader module, a smart card reader module, a digital sensor module, a biometric sensor module, a magnetically encoded data reader module, an RFID reader module, and an optical code reader module.

Ruppert teaches a data collection module, comprising a support having a predetermined form factor; a first auto ID reader (col. 21, lines 63+) supported by the support, the first auto ID

Art Unit: 2876

reader operative for sensing encoded data on a first type of record carrier positioned near the first auto ID reader and for reading the encoded data; a second auto ID reader (magnetic head) (col. 17, lines 13+) supported by the support, and operative for sensing encoded data on a second type of record carrier configured to contact a portion of the second auto ID reader, the second auto ID reader further operative for reading the encoded data; and a radio frequency (RF) transceiver (col. 20, lines 53+) supported by the support, and operative for transmitting the data processed by the auto ID readers derived from the record carriers. However, Ruppert fails to teach at least one of the first and second auto ID reader is an interchangeable module that is interchanged with modules including: a bar code symbol reader module, a smart card reader module, a digital sensor module, a biometric sensor module, a magnetically encoded data reader module, an RFID reader module, and an optical code reader module.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 703-305-1798. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-8792.


KDN

Application/Control Number: 09/819,970

Page 8

Art Unit: 2876

3 September 2003



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800